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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 CHANSAMONE APHAYAVONG,
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15 A. MALFI, WARDEN, and BILL
16 LOCKYER,
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Petitioner,

vs.

Respondents.

CASE NO. 06cv2552 IEG (WMc)

ORDER:

**(1) ADOPTING THE
MAGISTRATE JUDGE'S REPORT
[Doc. No. 23]; and**

**(2) DENYING THE PETITION
FOR WRIT OF HABEAS CORPUS
[Doc. No. 1].**

On November 15, 2006, petitioner Chansamone Aphayavong, a state prisoner proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his July, 2002 conviction for second degree murder. (Doc. No. 1.) Petitioner advances three claims: (1) there was insufficient evidence to support his conviction, (2) he received ineffective assistance of counsel, and (3) the trial court should have sua sponte instructed on the lesser offense of voluntary manslaughter.

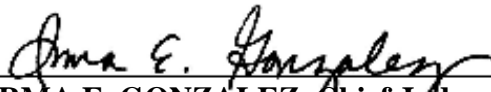
This matter was referred to United States Magistrate William McCurine pursuant to 28 U.S.C. § 636(b)(1)(B). On March 16, 2008, Magistrate Judge McCurine issued a Report and Recommendation recommending the Court deny the petition for writ of habeas corpus in its entirety because the California Court of Appeal's decision in petitioner's case was not contrary to nor an unreasonable application of federal law. (Doc. No. 23.) Any objections to the Report and Recommendation were originally due April 18, 2008, but the Court granted petitioner an extension

1 until May 19, 2008. (Doc. No. 26.) Petitioner has not filed any objections as of the date of this Order.

2 Accordingly, the Court ADOPTS the magistrate judge's well-reasoned Report and
3 Recommendation in its entirety, and DENIES the petition for writ of habeas corpus. The Clerk of the
4 Court shall close the case.

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6 **IT IS SO ORDERED.**

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8 **DATED: June 20, 2008**

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10 **IRMA E. GONZALEZ, Chief Judge**
11 **United States District Court**
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